

# **EXHIBIT 4**

Lucinda Allen  
December 03, 2019

1

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK

**ORIGINAL**

3  
4 DENISE PAYNE,

5 Plaintiff,

6 INDEX NO.: 18-cv-1442

7 vs.

8  
9 CORNELL UNIVERSITY,

10 Defendant.  
11

12  
13 This is the Examination Before Trial of

14 LUCINDA ALLEN

15 held on the 3rd day of December, 2019,

16 held at Cornell University Counsel's Office,

17 235 Garden Avenue, Ithaca, New York.  
18  
19  
20

21 REPORTED BY: CAITLYN A. SHAYLOR  
22 Shorthand Reporter  
23  
24  
25

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A P P E A R A N C E S

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BY: ADAM G. PENCE, ESQUIRE

S T I P U L A T I O N S

It is stipulated by and between the parties hereto that the filing of the deposition is waived; that the deposition may be signed before any Notary Public; and that all objections except as to the form of the question are reserved to the time of the trial.

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1 L U C I N D A A L L E N  
2 having been called as a witness,  
3 having been duly sworn, was examined  
4 and testified as follows:

5 EXAMINATION BY

6 MS. VINCI:

7 Q Good afternoon, Ms. Allen. We met a  
8 couple minutes ago off the record. My name is  
9 Gabrielle Vinci. I represent Denise Payne in a  
10 lawsuit she has brought against Cornell  
11 University. You're here today to answer some  
12 questions regarding the allegations in that  
13 lawsuit, and to testify as to what information  
14 you know or can recall regarding the  
15 circumstances surrounding Ms. Payne's lawsuit.  
16 Have you ever been deposed before?

17 A Yes.

18 Q Okay. When was the last time you were  
19 deposed?

20 A I don't recall the date.

21 Q Do you recall was it more than a year  
22 ago?

23 A More than a year ago.

24 Q Was that an action that you were a party  
25 to?

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1 A Yes.

2 Q Okay. Were you the plaintiff or the  
3 defendant in that case?

4 A Plaintiff.

5 Q Okay. And what type of suit was that?

6 A It was a discrimination suit.

7 Q Okay. And who were you suing in that  
8 lawsuit?

9 A I know the acronym, ADIC, advanced  
10 digital, I think it was information corporation.

11 Q And when you say a discrimination, was it  
12 discrimination based on something in particular?

13 A It was sexual discrimination.

14 Q Okay. Is that lawsuit ongoing?

15 A No.

16 Q At the time -- strike that. Did that  
17 lawsuit go to trial?

18 A No.

19 Q Other than the deposition you had for  
20 your suit against ADIC, have you ever been  
21 deposed?

22 A No.

23 Q Okay. So similar to what I'm sure were  
24 the ground rules during that deposition, I'm just  
25 going to go over some guidelines for today, just

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1 to help make sure that it goes smoothly. The  
2 first is, as you can see we have a court reporter  
3 here. She's taking down all the questions and  
4 answers, so I just ask that all of your responses  
5 be verbal.

6 A Uh-huh.

7 Q And if you can just articulate your  
8 response, so something like an uh-huh doesn't  
9 translate very well on the transcript, and we  
10 just want to make sure we have all of your  
11 responses clearly and accurately. In addition, I  
12 would just ask that you allow me to finish my  
13 question before you go on and answer it, and I  
14 will also allow you to finish your answer before  
15 I go on to my next question just so we have a  
16 clear transcript. It's difficult for the  
17 reporter to take two people speaking at once; is  
18 that okay?

19 A Okay.

20 Q If at any point in time you don't  
21 understand a question that I've asked, or if  
22 you'd like me to repeat it, please let me know.  
23 If you answer the question as it's posed to you,  
24 I'm going to assume that you understood it; is  
25 that okay?

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1 A Yes.

2 Q Okay. If at any time you need a break  
3 for whatever reason, I'm happy to take as many  
4 breaks as you need. I don't anticipate that we  
5 will be all day today, but that being said, I'm  
6 happy to break at any time. I just ask that if  
7 there's a question pending, you answer that  
8 question and then we'll take that break; is that  
9 okay?

10 A Yes.

11 Q Okay. These next questions are not meant  
12 at all to -- to offend you, they're just to see  
13 your fitness to testify today. Are you on any  
14 medications that would inhibit your ability to  
15 understand my questions today?

16 A No.

17 Q Are you on medications that would inhibit  
18 your ability to truthfully answer my questions  
19 today?

20 A No.

21 Q What, if anything, did you do to prepare  
22 for today's deposition?

23 A I met with Adam and Valerie probably a  
24 month ago.

25 Q Okay. And did you meet with Adam and

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1 Valerie together or in separate meetings?

2 A Together.

3 Q Was anybody else in that meeting with  
4 you?

5 A No.

6 Q How long was that meeting?

7 A I don't recall entirely, but I would say  
8 two to three hours.

9 Q Since that meeting about a month ago,  
10 until today, have you done anything else to  
11 prepare for your deposition?

12 A No.

13 Q Did you review any documents?

14 A No.

15 Q Okay. Are you aware that Ms. Payne has  
16 been deposed in this case?

17 A I don't recall being told that.

18 Q Okay.

19 A Okay.

20 Q So have you -- is it fair to say that you  
21 have not seen the transcript of her deposition in  
22 this case?

23 A That's fair to say.

24 Q Okay. Have you ever seen the complaint  
25 that was filed on Ms. Payne's behalf in this



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1 case?

2 A Yes.

3 Q When was the last time you reviewed --

4 MS. VINCI: Sorry.

5 MR. PENCE: Just wait for her to  
6 finish the question.

7 A Okay.

8 Q It goes against how you talk in like  
9 normal conversation, but it's for the sake of our  
10 court reporter today. When was the last time you  
11 reviewed Ms. Payne's complaint?

12 A A month ago when I met with Adam and  
13 Valerie.

14 Q Did you review any other -- withdraw  
15 that. I'm going to preface this by saying that I  
16 don't want you to tell me anything about what you  
17 discussed during that meeting, that is privileged  
18 and I'm not asking for any of that information.  
19 During the meeting with Adam and Valerie did you  
20 review any other documents?

21 A Yes.

22 Q What other documents did you review?

23 A A couple of e-mails --

24 Q Okay.

25 A -- I believe, and I think that was all.

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1 Q Okay. Can you recall what any of the  
2 e-mails you reviewed were about, what the  
3 substance of them was?

4 A Yes, there was one that was under my name  
5 and it was an e-mail that I had inadvertently  
6 sent to Denise, to Ms. Payne, as opposed to  
7 another party.

8 Q Who did you intend to send that e-mail  
9 to, if you can recall?

10 A It was intended for Amanda Shaw.

11 Q And what were you saying in that e-mail  
12 that was meant to go to Amanda Shaw?

13 A The basis of the e-mail was that I did  
14 not have confidence in Denise's skills or  
15 abilities to handle a certain job task.

16 Q And we'll talk more about that later in  
17 the day. Can you recall the substance of any  
18 other e-mails that you reviewed when you met with  
19 counsel about a month ago?

20 A I don't recall any specifics.

21 Q What's your highest level of education?

22 A A Master's of Science.

23 Q And where did you earn that degree from?

24 A Rochester Institute of Technology.

25 Q Do you recall the year that you earned

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1 your Master's?

2 A 2010 I think.

3 Q And are you currently employed?

4 A Yes.

5 Q Where are you currently employed?

6 A Cornell University.

7 Q What is your current position at Cornell?

8 A I'm Director of Administration at  
9 Chemical and Biomolecular Engineering in the  
10 College of Engineering.

11 Q How long have you been in that role?

12 A Two years.

13 Q How long have you worked for Cornell  
14 University?

15 A Nearly 13 years, since March of 2006.

16 Q And to the best of your ability can you,  
17 from start to your current role now can you tell  
18 me the job positions you've held throughout your  
19 time at Cornell University?

20 A All of the positions at Cornell?

21 Q Let's limit it to this. The director  
22 role that you're in now, that's a supervisory  
23 role, correct?

24 A Correct.

25 Q For how long have you held a supervisory

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1 role at Cornell?

2 A At Cornell?

3 Q Yes.

4 A I -- I don't recall the specific year of  
5 the supervisory, the start of supervisory, but I  
6 -- I can't give you a specific --

7 Q Okay.

8 A -- for sure. It's probably, I want to  
9 say close to ten years.

10 Q Okay. So to the best of your ability can  
11 you lay out for me all of the supervisory roles  
12 that you've held at Cornell?

13 A Sure. So prior to this position I was in  
14 the School of Hotel Administration, so most all  
15 of the roles are there. I supervised all the  
16 teaching chefs, I supervised all the admins. Let  
17 me correct that. I supervised managers that  
18 supervised them. I had at one point in time two  
19 individual contributors that reported directly to  
20 me, not through a manager. I supervised all the  
21 center and institute employees. So the positions  
22 at the School of Hotel Administration went  
23 anywhere from two reports to a maximum, I think,  
24 I believe, at one point in time I had close to  
25 ten direct reports, managers, or individual

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1 contributors who had worked -- who had employees  
2 under them.

3 Q When you supervised the managers who also  
4 have employees under them, do you have any  
5 day-to-day oversight over the employees? Not the  
6 managers, but the employees under them.

7 A No.

8 Q Okay. Are you -- but you're still  
9 considered higher in the chain of command than  
10 them?

11 A Yes.

12 Q You're familiar with Denise Payne?

13 A Yes.

14 Q When did you first meet Ms. Payne?

15 A I don't recall the specific date. I  
16 don't -- yeah, I don't recall the specific date.

17 Q Okay. Do you recall the year that you  
18 met her?

19 A That's a -- it's a while back. It was  
20 when the College of Business was formed.

21 Q Okay. When was the College of Business  
22 formed, if you can recall?

23 A Well, it was announced and formed between  
24 the fall of 2015 and spring of 2016.

25 Q And under what circumstances did you meet

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1 Ms. Payne?

2 A It was an exploratory discussion. HR had  
3 asked that I -- I meet with her.

4 Q And an exploratory discussion about what?

5 A A new department that was being formed.

6 Q What was the department?

7 A Business analytics within the college.

8 Q Was that intended at that time -- to your  
9 knowledge, was that intended to be a department  
10 that you would have oversight of?

11 A Yes.

12 MR. PENCE: Object to the form.

13 Q Do you know why human resources asked you  
14 to meet and speak with Ms. Payne about that  
15 department?

16 A The thought was that she might play a  
17 potential role in that department.

18 Q Prior to when you first met her regarding  
19 the business analytics department, had you ever  
20 heard of Ms. Payne before?

21 A Only through HR.

22 Q Okay. So let me rephrase that. Prior to  
23 human resources reaching out to you to meet with  
24 Ms. Payne, had you ever heard about her before?

25 A No.

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1 Q Okay. Where did you meet with Ms. Payne?

2 A In my office.

3 Q If I -- strike that. When you met with  
4 Ms. Payne, what did you discuss?

5 A It was exploratory, as I said. We talked  
6 that this new group might be formed.

7 Q Did you discuss at all at that time any  
8 specific position that she might fill?

9 A No.

10 Q Okay.

11 A Not that I recall.

12 Q Did Ms. Payne eventually join the  
13 business analytics department?

14 A Yes.

15 Q Okay. Do you recall when that was?

16 A I don't recall the specific date.

17 Q If you can give just a general time  
18 frame.

19 A It was in 2016, I know that, so --

20 Q Okay. Do you recall interviewing Ms.  
21 Payne for the data analyst II position?

22 A No, I don't recall that.

23 Q Was there a data analyst II position  
24 within the business analytics department?

25 A No, the employees that came to the

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1 department moved in, to the best of my knowledge.  
2 I think everybody moved in at their band level  
3 that they were. They came in at their job level  
4 and everybody moved in. We didn't know what the  
5 jobs were going to be.

6 Q Okay. Did you ever interview Ms. Payne  
7 for any job in the business analytics department?

8 A Not that I recall. I don't recall a  
9 formal interview ever.

10 Q Do you recall an informal interview?

11 A This exploratory discussion.

12 Q How long did that discussion last?

13 A I don't recall.

14 Q Was it more than ten minutes?

15 A I really don't recall.

16 Q Was there anybody else present for that  
17 discussion besides yourself and Ms. Payne?

18 A No.

19 Q When you say that the employees came in  
20 at the same band level --

21 A Uh-huh.

22 Q -- what do you mean by band level?

23 A There were several -- when the College of  
24 Business formed, there were individuals  
25 throughout the three colleges that were doing



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1     like task. They were at different levels within  
2     the job family and the thought was to group them  
3     together, bring them into a group, figure out  
4     what things we were keeping and what things we  
5     were letting go, and then actually look at what  
6     residual -- what remained. Like normal  
7     organizational change, look what was remaining  
8     and create then position descriptions for those  
9     jobs.

10         Q     Are there -- is there a different -- is  
11     there a salary differentiation between the band  
12     levels?

13         A     Yes.

14         Q     Do you recall what band level Ms. Payne  
15     was at when the business analytics department was  
16     formed?

17         A     No, I don't recall.

18         Q     Did you speak -- strike that. Do you  
19     recall when Ms. Payne joined the business  
20     analytics department?

21                 MR. PENCE: Objection, asked and  
22     answered, but you may --

23         A     Yeah, I thought I said -- I don't recall  
24     exactly. I think it was in 2016.

25         Q     Let me do it this way. It might be a

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1 little easier. I'm going to hand you what's been  
2 previously marked as Exhibit 9. Just take your  
3 time to review that and let me know when you have  
4 had a chance to do so. Have you had a chance to  
5 look at Exhibit 9?

6 A I have.

7 Q Have you ever seen this before?

8 A I don't recall, but normally I would get  
9 a copy of all letters, so --

10 Q Okay. So this appears to be, and has  
11 been previously identified, as an offer letter  
12 sent to Ms. Payne on September 23rd, 2016 from  
13 Kathryn Doxey; would you agree with that?

14 A Yes.

15 Q Okay. And Ms. Doxey starts that the  
16 letter is being sent on behalf of Cindy Allen,  
17 that's you, correct?

18 A Uh-huh, yes.

19 Q And it's offering -- it's offering Ms.  
20 Payne a position of data analyst in the College  
21 of Business, correct?

22 A Correct.

23 Q Okay. During the exploratory discussion  
24 that you had with Ms. Payne did you specifically  
25 talk about a data analyst role in the Cornell

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1 College of Business?

2 A No, not that I recall.

3 Q Did you discuss any specific position  
4 with her?

5 A Not that I recall.

6 Q Did you discuss any terms of compensation  
7 with her?

8 A Not that I recall.

9 Q Okay. Did you have any discussion with  
10 Ms. Doxey regarding this offer -- this job offer  
11 to Ms. Payne?

12 A Not that I recall. HR was quite frankly  
13 handling most of that in the College of Business.  
14 They would not have put an employee in my  
15 department without me knowing.

16 Q When you say that HR was handling most of  
17 that, would HR seek your approval before placing  
18 an employee in your department or would they just  
19 notify you that an employee was coming?

20 MR. PENCE: Object to form, but you  
21 may answer.

22 A It -- they didn't seek approval, no.

23 Q Okay.

24 A They did not seek approval.

25 Q Okay.

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1           A     It would have been discussed that this  
2     individual would be coming to my group.

3           Q     Okay. Do you recall any discussion with  
4     anyone from HR regarding Ms. Payne coming to your  
5     group?

6           A     Yes.

7           Q     Okay. And who did you speak to about  
8     that?

9           A     Kathy Doxey.

10          Q     Okay. Do you recall when that  
11     conversation took place?

12          A     No, I don't recall.

13          Q     Okay. Can you recall what you and Ms.  
14     Doxey discussed during that conversation?

15          A     I don't recall.

16          Q     Did you have any objection to Ms. Payne  
17     starting at the department?

18          A     No.

19          Q     Prior to Ms. Payne beginning in the data  
20     analyst role were you aware that she had been  
21     diagnosed with cancer?

22          A     Yes, she shared that with me.

23          Q     When did she share that with you?

24          A     In the exploratory meeting.

25          Q     What did she tell you in that exploratory

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1 meeting about her cancer diagnosis?

2 A I don't know specifics, but she disclosed  
3 and said that she would be going through  
4 treatment.

5 Q And what, if anything, was your response  
6 to that?

7 MR. PENCE: Object to form.

8 A I wished her all the best and told her  
9 that what she needed to concentrate on was her  
10 health.

11 Q Did you have any -- did you have any  
12 apprehension about a -- an employee who you knew  
13 would be undergoing cancer treatment starting at  
14 the department?

15 MR. PENCE: Object to form, but to  
16 the extent you understand the question, you  
17 may answer.

18 A No.

19 Q Did you ever speak to Ms. Doxey -- strike  
20 that. Prior to this offer letter did you ever  
21 speak to Ms. Doxey about Ms. Payne's cancer  
22 diagnosis and treatment?

23 A I don't recall.

24 Q Okay. All right. So the offer letter  
25 states that in the, at least the beginning of Ms.

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1 Payne's employment as a data analyst her time  
2 would be split until December 31st, 2016; do you  
3 see that?

4 A Uh-huh.

5 Q Okay. And did she in fact split her time  
6 to your knowledge?

7 A Yes.

8 Q Okay. Did she remain employed -- strike  
9 that. There came a time, however, that Ms. Payne  
10 went on a medical leave, correct?

11 A Yes.

12 Q Okay. Do you recall when that medical  
13 leave was?

14 A I don't. I don't remember the dates.

15 Q Okay. Do you recall if, just generally,  
16 if it was before or after she was supposed to  
17 split her time?

18 A I don't recall.

19 Q Okay. I will represent to you that the  
20 medical leave began in October of 2016.

21 A Okay.

22 Q During -- and went through the remainder  
23 of 2016 into January of 2017. During the time  
24 that Ms. Payne was out on medical leave, was  
25 there anybody in place to cover the work that she

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1 was supposed to be doing for the College of  
2 Business?

3 MR. PENCE: Object to form.

4 Counselor, you -- you can lay foundation  
5 any way you want, but you just represented  
6 a time period for leave that the witness  
7 says she's not familiar with, so I'm not  
8 entirely sure she can answer a question  
9 based on something she said she didn't  
10 recall. But to the extent the witness  
11 understands the question and is comfortable  
12 answering it, you may do so.

13 A Could you repeat the question, please?

14 Q Sure. During the time that Ms. Payne was  
15 on medical leave, to your recollection, did  
16 anybody cover the work that she was supposed to  
17 be doing for the College of Business?

18 MR. PENCE: Same objection. You may  
19 answer to the extent you can.

20 A So there's two things I would say: The  
21 group was brand new, so we didn't really know  
22 what we were doing entirely. To the extent that  
23 things that she was going to be doing in business  
24 analytics, there were people doing them, and I  
25 don't know about at BSL.

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1 Q Okay. Focussing just on the business  
2 analytics. When you say there were people doing  
3 them, do you mean that there were people within  
4 the group already that were doing those tasks?

5 A Ms. Payne was entirely new to the group,  
6 she didn't have a lot of assigned tasks at that  
7 point in time. We were still figuring out as an  
8 organization what this group was going to be  
9 doing. Other individuals who had moved into the  
10 group were doing the things that they had  
11 previously been doing in their college  
12 assignments.

13 Q Okay.

14 MS. VINCI: I'm sorry, can we just  
15 take a five minute break?

16 (OFF THE RECORD.)

17 Q Ms. Payne accepted this offer, correct,  
18 for the data analyst role?

19 A I'm not certain.

20 Q Let me rephrase. Ms. Payne assumed the  
21 data analyst role with the College of Business,  
22 correct?

23 A Correct.

24 Q Okay. At any point in time while she was  
25 serving in that role, did she discuss her



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1 compensation with you?

2 A No.

3 Q Okay. Do you know if she discussed her  
4 compensation with anybody at Cornell?

5 A I don't know that for a fact.

6 Q Okay. When Ms. Payne started in the  
7 business analytics department, who did she report  
8 to directly?

9 A I don't recall entirely. I -- I believe  
10 there was a period where it was a direct report  
11 to me; however, that was quickly addressed  
12 because I still had an organization of -- I was  
13 actually doing two positions and I still had all  
14 the employees -- it was a bandwidth issue and I  
15 still had all the employees in the School of  
16 Hotel Administration, plus I was doing project  
17 work to support the Dean, and had business  
18 analytics, so I had two appointments, and I --  
19 she may have reported to me for a short period of  
20 time, but I don't entirely recall.

21 Q Do you know a woman by the name of Tammy  
22 Lindsay?

23 A Yes.

24 Q Who is Tammy Lindsay?

25 A Tammy was an employee in the business

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1 analytics, and she was a manager for me at that  
2 group.

3 Q During the time that Ms. Payne was  
4 employed as a data analyst in the business  
5 analytics department, did she report to Tammy  
6 Lindsay?

7 A Yes.

8 Q Do you know for how long Ms. Payne  
9 reported to Ms. Lindsay?

10 A I don't recall specifics.

11 Q Okay. Other than the time where Ms.  
12 Payne reported directly to you, were -- can you  
13 recall any other times where she was not  
14 reporting to Ms. Lindsay?

15 A No.

16 Q Okay. Do you know what a flexible work  
17 agreement is?

18 A Yes.

19 Q What is your understanding of a flexible  
20 work agreement?

21 A My understanding?

22 Q Yes.

23 A Well, it's according to Cornell policy,  
24 and it can be flexible days or times, or working  
25 remotely.

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1 Q Are you aware that Ms. Payne -- strike  
2 that. When Ms. Payne returned from her medical  
3 leave, did she enter into a flex work agreement  
4 with Cornell?

5 A Yes, I believe so.

6 Q Okay. Do you recall when she entered  
7 into that agreement?

8 A No, I don't recall the date.

9 Q Okay. Do you recall whether there was  
10 more than one agreement that she entered into?

11 A I don't recall.

12 Q Okay. I'll show you a couple of  
13 documents that were previously marked. Okay.  
14 This has been previously marked as Exhibit 1.

15 MR. PENCE: We're just keeping the  
16 same designation?

17 MS. VINCI: Yeah.

18 MR. PENCE: So this is --

19 MS. VINCI: Yeah, that's fine.

20 Q Have you ever seen this document before?

21 A I don't recall specifically seeing the  
22 document.

23 Q So I'll represent to you that at Ms.  
24 Payne's prior deposition where this exhibit was  
25 identified, she identified that this was her

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1 flexible work agreement with Cornell dated  
2 February 2nd, 2017; would you agree with that  
3 description?

4 MR. PENCE: Object to form, but you  
5 may answer.

6 A Well, I'd like to clarify.

7 Q Sure.

8 A Effective February 16th, but it has an  
9 end date.

10 Q Yes. So this was effective February, I  
11 believe it's 6th, 2017 until May 1st, 2012?

12 A Uh-huh.

13 Q And you don't recall ever having seen  
14 this document before?

15 A Not seeing it. I don't recall seeing it.

16 Q Okay. Did you ever have any discussions  
17 about this flexible work agreement with Ms.  
18 Payne?

19 A No.

20 Q Okay. Did you ever have discussions  
21 about -- with -- about this agreement with Ms.  
22 Lindsay?

23 A Yes.

24 Q How many times did you discuss any work  
25 agreement with Ms. Lindsay?

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1 A I don't recall that.

2 Q Okay.

3 A How many times you said?

4 Q Yes.

5 A Yeah, I don't recall that.

6 Q Okay. What was the substance of your  
7 discussions with Ms. Lindsay regarding this work  
8 agreement?

9 A Ms. Lindsay wanted to support Denise's  
10 reentry into the organization and knew -- they  
11 knew that there were going to be times where she  
12 would have a follow-up doctor's appointment and  
13 hence the report work -- remote work portion.

14 Q Did you and Ms. Lindsay discuss the --  
15 the arrangement here allowing for the, it says  
16 change to standard time, end time and remote  
17 work?

18 A Where is that?

19 Q If you look about midway down the first  
20 page it says arrangement, check all that apply?

21 A Oh, yeah.

22 Q And it's checked change to standard time,  
23 end time and then also remote work, complete  
24 pages two to three, do you see that?

25 A Uh-huh.

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1 Q Okay. Did you discuss with Ms. -- with  
2 Ms. Lindsay that arrangement, that the agreement  
3 would include a change to standard start and end  
4 time and remote work?

5 A Not specifically to the boxes checked.  
6 We talked about the ability to work remote, so we  
7 didn't talk about an address. We took -- talked  
8 about the ability to work remote and to work  
9 around any follow-up doctor appointments she  
10 might have, and we talked about prior  
11 notification.

12 Q What did you discuss with Ms. Lindsay  
13 about prior notification?

14 A Well, it's written -- it's actually  
15 written in here (indicating) I believe. It's  
16 Cornell policy.

17 MS. VINCI: Just for the record when  
18 the witness says it's written here, she was  
19 indicating to the second page of the  
20 exhibit.

21 A Request to work overtime, second  
22 paragraph.

23 Q Okay. Did you discuss with Ms. Lindsay,  
24 with respect to prior notification, what specific  
25 notification was needed prior to Ms. Payne

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1       needing to either work from home or change her  
2       start or end time?

3           A       No, I don't manage at that level.

4           Q       Okay. Show -- I'll show you these two  
5       together. Please take your time to review them.  
6       Showing you what's been previously marked as  
7       Exhibits 4 and 5. Again, just take your time to  
8       review them. Let me know when you've had a  
9       chance to do so.

10                  MR. PENCE: Do you have -- oh, go  
11       ahead. Thanks. Apologies, did we get on  
12       the record what these are exhibit-wise?

13                  MS. VINCI: Identify? No, I just  
14       said --

15                  MR. PENCE: 4 and 5, that's what I  
16       mean.

17                  MS. VINCI: Yes, yes, 4 and 5, yes.

18                  MR. PENCE: I'm sorry.

19           A       Okay.

20           Q       Have you had a chance to review the  
21       exhibits?

22           A       I have.

23           Q       Okay. Have you ever seen Exhibit 4  
24       before, which I'll identify for the record as  
25       another flex work agreement for Denise Payne with

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1 an effective date of May 1st, 2017 and a review  
2 date of October 30th, 2017?

3 A I don't recall seeing this.

4 Q Okay. Have you ever seen Exhibit 5  
5 before, which, again, for the record I'll  
6 identify as another flex work arrangement  
7 agreement for Denise Payne, the signature date of  
8 October 28th, 2017, and if you turn to the last  
9 page it says begin date May 1st, 2017, review  
10 date 10/30/2017. Have you ever seen Exhibit 5  
11 before?

12 A I don't recall seeing it. I don't recall  
13 seeing these.

14 Q Okay. Did you ever have any discussion  
15 with Ms. Payne regarding the renewal of her flex  
16 agreements at Cornell?

17 A Not that I recall.

18 Q Did you ever have any discussions with  
19 Ms. Lindsay about the renewal of Ms. Payne's flex  
20 work agreements?

21 A Yes.

22 Q Okay. Do you recall how many times you  
23 discussed the renewal of Ms. Payne's agreements  
24 with Ms. Lindsay?

25 A No, I don't.



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1           Q     Okay. Do you recall the substance of any  
2     of the discussions you've had with Ms. Lindsay  
3     regarding the renewal of Ms. Payne's work  
4     agreements?

5           A     I remember at the review date Denise had  
6     rung the bell and was done with cancer  
7     treatments, cancer chemo and we were going to put  
8     more of a standard remote work flex agreement in  
9     place, which is more when needed. And I think  
10    this says as needed, you can't read it.

11                   MR. PENCE: Okay. Could we clarify  
12           which exhibit the witness is referring to?

13           A     Number 4 is more of what I would think  
14    not a special circumstance, but this I -- this  
15    time frame is about, I believe, when she rang the  
16    bell on her cancer treatments.

17           Q     Okay.

18           A     And was -- was back to work full time.

19           Q     Okay. So -- so just to clarify for the  
20    record, when you say at the time of the renewal  
21    she had rang the bell or -- or finished her  
22    cancer treatments.

23           A     Uh-huh.

24           Q     Are you talking about in May 2017? By  
25    May 2017 when the second work agreement was being

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1 entered into she had finished her cancer  
2 treatments, to your knowledge?

3 A I can't be definite about that, but I  
4 think it was around that time frame.

5 Q Okay. Okay. And to clarify, are you  
6 saying that based on that she entered into a  
7 more, as you said, standard remote work  
8 agreement?

9 MR. PENCE: Object to form, but you  
10 may answer.

11 A Well, it would always be up for review  
12 and this is for a non-exempt hourly employee.  
13 Working remote as needed is not uncommon.

14 Q Okay. Was there anything about Ms.  
15 Payne's initial flex work agreement, Exhibit 1,  
16 that was uncommon?

17 MR. PENCE: Object to form, but you  
18 may answer.

19 A I think in this -- she was still, I  
20 believe -- I may be wrong. I believe she was  
21 still undergoing some treatments and had some  
22 doctor appointments and we were trying to be  
23 supportive of that.

24 Q Okay.

25 A And accommodate.

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1 Q Okay. Do you know why, excuse me, in  
2 Exhibit 4 and 5 under the arrangement section the  
3 box for change to standard start and end time is  
4 not checked?

5 A I didn't fill it out, I -- I don't know.

6 Q Do you know if that arrangement or that  
7 accommodation to Ms. Payne was rescinded when she  
8 renewed her flex work agreement?

9 MR. PENCE: Objection. We're talking  
10 about several agreements at once now, so we  
11 should just clarify, if you could, which  
12 one you're asking about because there could  
13 be a different answer. So you just grouped  
14 them two together, could we do one at a  
15 time?

16 MS. VINCI: Sure.

17 Q Do you know why when Ms. Payne entered  
18 into the second flex agreement, which is Exhibit  
19 4 --

20 A Uh-huh.

21 Q -- she -- part of it was no longer that  
22 she changed -- she changed her standard start and  
23 end time, that arrangement was not checked?

24 A I don't know specifically.

25 Q Okay. When Ms. Payne, if you know,

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1 renewed her -- strike that. From May 1st, 2017,  
2 the date -- the effective date of Exhibit 4, the  
3 second work agreement, to August 28th, 2017, the  
4 signature date on Exhibit 5 the third work  
5 agreement, do you know if Ms. Payne was still  
6 allowed to have flexible start and end work  
7 times?

8 A I don't know.

9 Q Okay. After August 28th, 2017, which was  
10 the signature date on Exhibit 5, do you know if  
11 Ms. Payne was still allowed to have flexible  
12 start and end work times?

13 A Could you repeat that again?

14 Q Sure. After August 28th, 2017, which is  
15 the signature date on Exhibit 5 --

16 A Right.

17 Q -- do you know if Ms. Payne was allowed  
18 to have flexible start and end work times?

19 A I don't know specifically. It looks like  
20 they're pretty clearly detailed.

21 Q Okay. Do you know why the change to  
22 standard start and end time in Exhibit 4 was not  
23 checked?

24 A No.

25 Q Do you know why --

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1 A Yeah, are you talking on Exhibit 4?

2 Q Exhibit 4.

3 A No, I don't.

4 Q Okay. Do you know why the change to  
5 standard start and end time arrangement box on  
6 Exhibit 5 was not checked?

7 A No.

8 Q Okay.

9 A I didn't fill these out.

10 Q Okay. Exhibit 4 at the top notes that  
11 the effective date is May 1st, 2017 and the  
12 review date is October 30th, 2017, correct?

13 A Say that again. Exhibit 4?

14 Q Exhibit 4, in the first page at the top  
15 it notes that the effective date is May 1st, 2017  
16 and the review date is October 30th, 2017,  
17 correct?

18 A Uh-huh.

19 Q Do you know why Ms. Payne signed a new  
20 flexible work agreement in August of 2017?

21 A I don't recall specifics.

22 Q Okay. I understand you've said that you  
23 did not draft any of the work agreements.

24 A No.

25 Q Did you review them before they were

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1 signed?

2 A I don't recall.

3 Q Okay. Do you know who drafted Exhibit 1,  
4 the first work agreement?

5 A I don't know, but I -- well, it's  
6 conjecture.

7 Q Certainly don't want any -- any guessing,  
8 so if you don't know, it's okay to say you don't  
9 know.

10 A I don't know.

11 Q Do you know who drafted the Exhibit 4,  
12 the second work flex agreement?

13 A No.

14 Q And what about Exhibit 5, do you know who  
15 drafted that?

16 A No.

17 Q Okay. So I'm going to try to limit my  
18 questions, and they might be somewhat repetitive  
19 to time periods.

20 A Okay.

21 Q So the first time period I'll focus on is  
22 between the first two flex agreements. So  
23 between February -- just make it easy, February  
24 of 2017 to May 2017 did Ms. Payne ever complain  
25 to you about her ability to work with Ms. Lindsay

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1 under the flex agreement between February of 2017  
2 and May of 2017?

3 A We're talking about Exhibit 1, that  
4 agreement? I -- I don't recall that she did.

5 Q Okay. Are you aware of any issues that  
6 arose between Ms. Lindsay and Ms. Payne in that  
7 time period, so the February of 2017 to May of  
8 2017?

9 MR. PENCE: Object to form, but to  
10 the extent you understand the question, you  
11 may answer.

12 A I believe there were concerns regarding  
13 notification of hours she was working and when  
14 she was working and getting, according to the  
15 documentation here, pre-approved and running it  
16 by the staff supervisor.

17 Q When you say there were concerns, did  
18 somebody bring those concerns to your attention?

19 A Tammy.

20 Q Okay. What specifically did Ms. Lindsay  
21 tell you her concerns were regarding notification  
22 and pre-approval?

23 A Lack of it.

24 Q When did Ms. Lindsay bring these concerns  
25 to your attention?

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1           A     I don't remember a specific date.

2           Q     Did she bring these concerns to your  
3 attention more than once?

4           A     I don't recall.

5           Q     Did you discuss Ms. Lindsay's concerns  
6 regarding notification -- lack of notification  
7 and lack of approval with Ms. Payne?

8           A     No.

9           Q     Why not?

10          A     She didn't report directly to me.

11          Q     Did you discuss these concerns with  
12 anybody besides Ms. Lindsay?

13          A     I don't recall.

14          Q     Again, limited to the time period between  
15 the first and the second agreement, so February  
16 of 2017, May of 2017, did Ms. Payne ever complain  
17 to you that Ms. Lindsay was not allowing her to  
18 work remotely?

19          A     Not that I recall.

20          Q     Okay. During that time period, excuse  
21 me, did Ms. Payne complain to you that Ms.  
22 Lindsay was scrutinizing her timecard?

23          A     Not that I recall. During the 2/6 to  
24 5/1, no.

25          Q     All right. During this time period did



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1 Ms. Payne ever complain to you that Ms. Lindsay  
2 was not abiding by the flex agreement that is  
3 Exhibit 1?

4 A No.

5 Q Okay.

6 A Not that I recall.

7 Q Do you know if Ms. Lindsay ever discussed  
8 her concerns regarding -- regarding pre-approval  
9 and notification with Ms. Payne?

10 A I don't know specifically if she did or  
11 not.

12 Q Okay. Do you know if she brought those  
13 concerns to anyone in HR?

14 A I don't know specifics. Again, anything  
15 I would say would be assumptions.

16 Q Okay. Don't want you to assume or to  
17 guess. Okay. And I'm going to go run through  
18 the same type of concerns for the next time  
19 period, which would be between the second and the  
20 third agreement, so May of 2017 to we'll go by  
21 the signature date of August 2017. During that  
22 time period, did Ms. Payne --

23 A I'm sorry.

24 Q Sorry?

25 A Which dates are we going --

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1           Q     So from the effective date of Exhibit 4,  
2     May 1, 2017 and we'll go to the signature date of  
3     Exhibit 5, August 28th, 2017.

4           A     Okay.

5           Q     During that time period did Ms. Payne  
6     ever complain to you that Ms. Lindsay was not  
7     abiding by the flexible work agreement?

8           A     Not that I recall.

9           Q     Okay. During that time period did Ms.  
10    Payne complain that Ms. Lindsay was scrutinizing  
11    her timecard?

12          A     She may have. I don't specifically  
13    recall it, but I would like to point out that  
14    supervisors are supposed to review time cards,  
15    that is their job, that's their role. We sign  
16    off on hours worked. Supervisors sign off on  
17    hours worked, so that is a standard procedure.

18          Q     Okay. During this time period did Ms.  
19    Payne ever complain that Ms. Lindsay would not  
20    approve her for -- to work remotely?

21          A     So this isn't a given. This is not a  
22    right. These are agreements and both parties  
23    need to comply with the terms of the agreement.  
24    And pre-approval is pre-approval and in writing  
25    is a requirement.

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1 MS. VINCI: Okay. Move to strike as  
2 non-responsive.

3 Q My question was during this time period  
4 -- I understand that this is not a -- a right  
5 that she has to do at any point in time and there  
6 are mechanisms for getting approval. My question  
7 was, however, whether or not during this time  
8 period Ms. Payne ever complained to you that Ms.  
9 Lindsay would not approve her to work from home?

10 A Not that I recall.

11 Q Okay. During this time period did Ms.  
12 Payne complain to you that Ms. Lindsay was not  
13 allowing her to have a flexible start or end  
14 time?

15 A Again, not that I recall specifically.

16 Q Okay. During this time period did Ms.  
17 Payne ever complain to you that Ms. Lindsay was  
18 changing her timecard?

19 A I don't recall that.

20 Q Okay. Are -- in supervising and  
21 reviewing and approving timecards, are managers  
22 permitted to change them in any way, change the  
23 hours worked?

24 A I would have to look at policy  
25 specifically. I think we are requested to -- I

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1 can talk to -- yeah, I'd have to look at the  
2 policy.

3 Q Which policy is that that you're  
4 referring to?

5 A There's a time entry and hours worked.

6 Q Okay. During this time period, again,  
7 the May 1, 2017 to August 28th, 2017 did Ms.  
8 Lindsay bring to your attention any more concerns  
9 she had regarding Ms. Payne?

10 MR. PENCE: Object to form, but to  
11 the extent you understand the question, you  
12 may answer.

13 A Yes.

14 Q Okay. What concerns did Ms. Lindsay  
15 bring to your attention?

16 A There were concerns about her developing  
17 skills and being able to work analytically on  
18 things. There were concerns about excessive time  
19 off unrelated to any medical leave, and there was  
20 concern that without being present and being on  
21 the job that it was going to be difficult to get  
22 her up to speed of the rest of the group.

23 Q With respect to Ms. Lindsay's concern  
24 that Ms. Payne was taking excessive time off  
25 unrelated to her medical needs, do you know how

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1 she knew that her absences were unrelated to  
2 medical needs?

3 A When you fill out the time off request  
4 you put in.

5 Q Do you know was there a set amount of  
6 time that Ms. Payne had available to her to take  
7 off for non-medical needs?

8 MR. PENCE: Object to form, but you  
9 may answer.

10 A I don't think -- so she accumulated time,  
11 she would accumulate time, but Ms. Lindsay gave  
12 her time off in addition. When she rang the bell  
13 -- when she had rang the bell and her cancer  
14 treatment was done, she asked to please spend  
15 some -- a week vacation. She felt it was really  
16 needed for her family and felt that they really  
17 needed an opportunity to bond and put this beyond  
18 them, and that was approved, time off with  
19 basically no -- you know, an unpaid time. And  
20 then there was things related to buying a house  
21 that came up. So I mean your time off is your  
22 time off, it accumulate -- it doesn't accumulate  
23 in a leave bucket and a non-leave bucket, but --

24 Q After Ms. Payne, as you said, rang the  
25 bell after her cancer treatments, to your

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1 knowledge --

2 A Uh-huh.

3 Q -- had been completed, do you know what,  
4 if anything, her treatment plan was after that  
5 for followup?

6 A Not specifically.

7 Q Okay. Do you know just generally at all?

8 A Not specifically. I know that we had a  
9 celebration and she said she was very excited to  
10 be released fully to work and become a part of  
11 the team in that celebration that we had for her,  
12 so --

13 Q Did you ever speak to Ms. Payne about Ms.  
14 Lindsay's concerns that she was not developing  
15 the necessary skills in her role?

16 A No, I don't believe so. I don't believe  
17 I did.

18 Q Okay. Did you ever discuss with Ms.  
19 Payne Ms. Lindsay's concern that she was taking  
20 too much time off unrelated to her medical needs?

21 A No, but I know that Ms. Lindsay did.

22 Q How do you know that Ms. Lindsay did?

23 A She told me she was going to.

24 Q She told she was going to speak with Ms.  
25 Payne?

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1 A Uh-huh.

2 Q Or that she had spoke to Ms. Payne?

3 A Going to speak to her and had spoke to  
4 her, both.

5 Q Okay. And what did Ms. Lindsay tell you  
6 about the conversation she had had with Ms. Payne  
7 regarding Ms. Lindsay's concern that she was  
8 taking too much time off unrelated to her medical  
9 needs?

10 A Basically they weren't in agreement.

11 Q Did you ever speak to Ms. Payne about Ms.  
12 Lindsay's concern that she wasn't able to get up  
13 to speed as other members in the group?

14 A No.

15 Q Okay. Did you have any opinion related  
16 to Ms. Payne's work performance as a data  
17 analyst?

18 A Yes.

19 MR. PENCE: Object to form, but you  
20 may answer.

21 A Yes.

22 Q And what was that opinion?

23 MR. PENCE: Same objection. You may  
24 answer.

25 A I hadn't seen that she was able to take

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1 on a project and handle it fully independently.  
2 There were a lot of errors in her work. There  
3 were things that were not thought through. There  
4 were times where she would not ask the questions  
5 to get the full information, and I was concerned  
6 that we hadn't gotten her up to speed.

7 Q Did you discuss these performance issues  
8 with Ms. Payne?

9 A No, she didn't report to me.

10 Q Did -- strike that. Did you supervise  
11 Ms. Payne's day-to-day work?

12 MR. PENCE: Under which time period?

13 Q At any time period.

14 A Day-to-day work, no, but I would see  
15 reports she produced. So that's how I knew there  
16 were errors.

17 Q Would you discuss those errors with  
18 anybody?

19 A Her supervisor Tammy.

20 Q That would be Ms. Lindsay?

21 A Yes.

22 Q Do you know if Ms. Lindsay spoke to Ms.  
23 Payne regarding those errors?

24 A I don't know for sure.

25 Q You said earlier that you had reviewed an



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1 e-mail meant for Ms. Shaw regarding your lack of  
2 confidence in Ms. Payne's skills and abilities,  
3 do you remember that?

4 A Yes.

5 Q Did you ever actually send that e-mail to  
6 Ms. Shaw?

7 MR. PENCE: Object to form. We don't  
8 have the document in front of us, but to  
9 the extent you can recall.

10 A I don't know.

11 Q Okay.

12 A I definitely sent it in error to Denise.

13 Q Okay. Did you ever discuss with Ms. Shaw  
14 your concerns regarding Ms. Payne's performance?

15 A I wouldn't characterize it exactly that  
16 way.

17 Q How would you characterize it?

18 A I would characterize it that we were  
19 looking for a task and responsibilities that  
20 Denise could do. And I did not feel that she was  
21 developed enough for some specific task.

22 Q What tasks was, did you feel she was not  
23 developed enough for?

24 A So this specific e-mail was related to  
25 rankings and there's an art to submitting data

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1 for rankings. A lot depends on it for the  
2 college and the College of Business in terms of  
3 how you interpret and how you answer the  
4 question. And Denise was not one to think  
5 strategically through those things, nor to run  
6 responses by other individuals, or to ask for  
7 their incite.

8 Q Did you discuss these issues with her  
9 ability to -- to perform or run the rankings with  
10 Denise?

11 A After I sent the e-mail I did.

12 Q Okay.

13 A I went up immediately and asked to talk  
14 to her, told her that I had growing concerns  
15 about how she had developed in the group and that  
16 I thought, you know, that I wanted to make  
17 certain that we were getting her to the point  
18 where she could handle some of these tasks, but I  
19 had concerns. And she screamed and yelled at me  
20 and walked out.

21 Q What did she scream and yell at you?

22 A That she didn't want to talk about it,  
23 that she was as good as anybody in the group and  
24 she walked out on that meeting.

25 Q Was anybody in that meeting besides

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1       yourself and Ms. Payne?

2           A       No.

3           Q       Did there come a point in time that Ms.  
4       Payne complained that her work environment was  
5       affecting her health?

6           A       I don't recall specifics of that to me, I  
7       believe she was seeking the counsel of HR.

8                   MS. VINCI:   Could we mark this as  
9       Exhibit A?

10       (EXHIBIT A MARKED FOR IDENTIFICATION.)

11          Q       Ms. Allen, you've been handed what's been  
12       marked as Plaintiff's Exhibit A.  If you could  
13       review that and let me know when you've had a  
14       chance to do so.  Have you had a chance to review  
15       Exhibit A?

16          A       I have.

17          Q       Do you recognize this e-mail?

18          A       It's an e-mail from Denise to me.

19          Q       So the -- it appears to be a chain of  
20       e-mails, or a series of e-mails, and the top  
21       e-mail is from Ms. Payne to yourself dated May  
22       9th, 2017 at 9:50 a.m. and it reads:  Hi, Cindy,  
23       do you have some time to talk to me today?  I  
24       have some concerns with the turmoil of this team  
25       and how it may impact my health; do you see that?

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1 A Uh-huh, yes.

2 Q Do you recall receiving this e-mail?

3 A I don't recall receiving it, but clearly  
4 I did, so --

5 Q Do you --

6 A Well --

7 Q Sorry, were you finished?

8 A Uh-huh.

9 Q Okay. Do you recall speaking to Ms.  
10 Payne in May of 2017 regarding what she  
11 considered turmoil within the team?

12 A I don't recall if I spoke with her after  
13 this or not.

14 Q Okay. Do you recall Ms. Payne ever  
15 stating to you that her health was being affected  
16 by working on the team?

17 A She does right here.

18 Q I understand that she says that in this  
19 e-mail. I'm saying separately from this. Do you  
20 recall her ever complaining to you that working  
21 on the team was affecting her --

22 A Health.

23 Q -- health?

24 A No.

25 Q Did Ms. Payne ever complain to you about

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1 working with Ms. Lindsay?

2 A I don't recall specifically. I do know  
3 things were degrading.

4 Q When you say degrading, what do you mean  
5 by that?

6 A My interpretation of the events, Denise  
7 did not appreciate being managed. A supervisor  
8 that looks at the time you're taking or your  
9 request for time off, or how you're developing  
10 and getting up to speed and tries to have those  
11 developmental conversations, she was not  
12 receptive to them.

13 Q Are you aware of any specific issue or  
14 complaint Ms. Payne had regarding how she was  
15 being managed?

16 MR. PENCE: Object to form, but you  
17 may answer.

18 A Well, you mentioned it previously, she  
19 didn't like having her timecard reviewed. She  
20 did not like being required to get approval on  
21 taking time -- taking time off. She did not like  
22 people asking her questions, Ms. Lindsay asking  
23 her questions about why she did something a  
24 certain way. In terms of reporting or the work.

25 Q Was it that she -- your understanding --

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1 in your understanding, was that she did not like  
2 having to get pre-approval for time off, or that  
3 her time off was not being approved?

4 MR. PENCE: Object to form. Calls  
5 for speculation.

6 A Yeah, I have lots of opinions.

7 Q Well -- well, you just in response  
8 mentioned -- well, strike that. Did she ever  
9 complain to you that Ms. Lindsay was not  
10 approving her time?

11 MR. PENCE: Under what time period  
12 again?

13 Q At any point.

14 A Not that I recall.

15 Q Okay. You mentioned that you were aware  
16 Ms. Payne was engaging in some way with human  
17 resources, correct?

18 A Uh-huh.

19 Q When did you first become aware that Ms.  
20 Payne had gone to human resources with any  
21 complaints about her work environment?

22 A I don't remember a specific date. I  
23 don't remember a specific date.

24 Q Do you recall any time period, whether it  
25 was -- what year or the month?

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1           A     No, I don't, and it was through  
2           conversation with Kathy Doxey, but I don't  
3           remember specifics.

4           Q     Do you recall anything that Ms. Doxey  
5           told you about Ms. Payne reaching out to human  
6           resources?

7           A     No.

8           Q     Okay. Do you know the nature of Ms.  
9           Payne's complaints to human resources?

10          A     Not specifically that I would restate.

11          Q     Do you know generally the nature of her  
12          complaints to human resources?

13          A     Generally it was about time and time off  
14          and not necessarily liking to get the  
15          pre-approval.

16          Q     Do you know if Ms. Payne ever accused Ms.  
17          Lindsay of discriminating against her?

18          A     No.

19                   MR. PENCE: Object to form, but you  
20          may answer.

21          A     No, no, I don't recall.

22          Q     Okay. Do you know if Ms. Payne ever  
23          accused Ms. Lindsay of not giving her disability  
24          accommodations?

25                   MR. PENCE: Object to form.

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1 A Yes.

2 Q Okay. How are you aware of that?

3 A From Ms. -- from Ms. Lindsay. When she  
4 rang the bell back on this 5/1 (indicating).

5 Q Okay.

6 A We were under the understanding from her  
7 work release that she was released entirely in  
8 full. And it came up post that release, post  
9 this agreement (indicating).

10 Q When you say it came up post this  
11 agreement, what's the it or the that?

12 A When Tammy told me that Denise felt she  
13 was still on medical leave.

14 Q Okay. At that time did Ms. Lindsay  
15 elaborate about what she -- well, strike that.  
16 When you say that Ms. Lindsay told you Denise  
17 felt like she was still on medical leave, is that  
18 a direct quote of Ms. Lindsay or are you just --

19 A No.

20 Q -- summarizing the --

21 A I'm summarizing.

22 Q Okay. Okay. Did Ms. Lindsay give you  
23 any examples, or specifics about in what way Ms.  
24 Payne felt she was still on medical leave?

25 A No.



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1 Q What she did or said?

2 A No.

3 Q Okay. Other than hearing from Ms.  
4 Lindsay that Ms. Payne felt she was not getting  
5 accommodations, did you hear from anyone in HR  
6 that Ms. Payne felt she was not getting proper  
7 accommodations at Cornell?

8 A I don't recall that.

9 Q Okay. Do you recall having a meeting  
10 with human resources regarding Ms. Payne and her  
11 flex work agreements?

12 A No.

13 Q Do you recall having any meeting with  
14 Kathy Doxey, Ms. Payne, Ms. Lindsay and Julie  
15 Weaver regarding Ms. Payne's complaints to human  
16 resources?

17 A Not -- no.

18 Q Okay.

19 A Not specifically.

20 Q Did you have any meetings with human  
21 resources regarding Ms. Payne?

22 A I don't recall any specifics.

23 Q Okay. You said that you learned Ms.  
24 Payne had gone to human resources through Kathy  
25 Doxey; is that correct?

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1 A Yes.

2 Q What did Ms. Doxey tell you about Ms.  
3 Payne reaching out to human resources?

4 A She told me that Ms. Payne had concerns  
5 about time off and working with Tammy Lindsay.

6 Q Did Ms. Doxey elaborate on what the --  
7 Ms. Payne's concerns were about working with Ms.  
8 Lindsay?

9 A No, she didn't. She -- I mean, she may  
10 have. I'm sure she probably -- I don't remember  
11 specifics.

12 Q Again, we're not asking you to guess.

13 A Yeah.

14 Q I understand that these questions are  
15 geared toward a time period --

16 A Uh-huh.

17 Q -- that happened many years ago. If you  
18 don't remember, it's perfectly okay to say you  
19 don't remember. How many times did you speak  
20 with Ms. Doxey regarding Ms. Payne's discussions  
21 or complaints to human resources?

22 A I don't recall. I don't know how many  
23 times.

24 Q Was it more than once?

25 A I don't know.

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1 Q Do you know an individual named Julie  
2 Weaver?

3 A Yes.

4 Q Did she also work in human resources?

5 A She did.

6 Q Did you ever speak with Ms. Weaver about  
7 Ms. Payne's complaints to HR?

8 A Not that I recall.

9 Q What, if anything, did you say to Ms.  
10 Doxey in response to learning about Ms. Payne's  
11 complaints to HR?

12 A I don't recall. I don't recall specifics  
13 of what her conversation was or how I responded.  
14 I don't recall any specifics at all really.

15 Q Did you ever speak to Ms. Payne about her  
16 going to human resources?

17 A No.

18 Q Did you ever speak to Ms. Lindsay about  
19 Ms. Payne going to human resources?

20 A Yes.

21 Q Do you recall when you did that?

22 A No.

23 Q Do you recall when Ms. Doxey told you  
24 about Ms. Payne going to human resources?

25 A No.

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1           Q     What did you discuss with Ms. Lindsay  
2           when you spoke about Ms. Payne going to human  
3           resources?

4           A     I don't remember specifics, but it would  
5           be common. And I'm sure I did it here, to talk  
6           to her about a situation where an employee was  
7           feeling uncomfortable and how -- basically, coach  
8           her.

9           Q     Coach her, did you say?

10          A     Yeah, coach Ms. Lindsay and --

11          Q     Do you recall what, if any, response Ms.  
12          Lindsay had to that?

13          A     No, I don't.

14          Q     Okay. Do you know if Ms. Lindsay ever  
15          spoke to Ms. Payne about going to HR?

16          A     I don't, no.

17          Q     Did you ever go to HR to complain about  
18          Ms. Payne?

19          A     Not that I recall.

20          Q     Okay. Did you ever speak to Ms. Doxey  
21          about Ms. Payne's work performance?

22          A     Yes.

23          Q     Okay. When did that happen? Well,  
24          strike that. How many times did you speak with  
25          Ms. Doxey about Ms. Payne's work performance?

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1           A     I don't know specifically how many, but  
2     it would've been common for -- to talk about  
3     developing an employee and getting them up to  
4     speed, and so I do know I talked about that. And  
5     also, we were -- again, we were still trying to  
6     figure out what this group was going to do, you  
7     know, or if there was even going to be a group.  
8     So we would have strategic planning meetings to  
9     talk about who could go where. Prior to my  
10    leaving, they were talking about disbanding the  
11    group.

12          Q     When did you leave?

13          A     November of 2017.

14          Q     Do you know who, if anyone, replaced you?

15          A     No, no one replaced me.

16          Q     Do you know what happened to the group  
17    upon your departure?

18          A     Yes, it was disbanded. Those functions  
19    were to be done by the colleges.

20          Q     Do you know what happened to Ms. Payne  
21    after the group disbanded?

22          A     I know they laid off everybody remaining  
23    in the group.

24          Q     How many people were remaining in the  
25    group at that time, the time of your departure?

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1           A     So I'm going to go back to that last  
2     question, saying they laid off everybody. I  
3     think one individual may have taken a different  
4     job and moved, but then the remaining people --  
5     someone had already resigned, someone took  
6     another job, and then the remaining people were  
7     laid off.

8           Q     Okay. Do you know how many people were  
9     ultimately laid off from that group at that time?

10          A     I believe two.

11          Q     Who were they?

12          A     Tammy Lindsay and Denise Payne.

13          Q     Do you know if following the disbandment  
14     of the group Ms. Lindsay continued to work for  
15     Cornell for a time?

16                   MR. PENCE: Object to form, but you  
17     may answer.

18          A     I think she came back as a temporary  
19     doing a project.

20          Q     Do you know if Ms. -- following being  
21     laid off, do you know if Ms. Payne put in any  
22     applications to work at Cornell again?

23          A     I don't know that.

24          Q     Okay. Did you ever speak to Ms. Weaver  
25     about your concerns regarding Ms. Payne's work

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1 performance?

2 A I don't recall. I don't know if I did or  
3 not.

4 Q Okay.

5 MS. VINCI: Let's mark this as B.

6 (EXHIBIT B MARKED FOR IDENTIFICATION.)

7 Q You've been handed what's been marked as  
8 Exhibit B. Just take your time to review that.  
9 Let me know when you've had a chance to do so.  
10 Have you had a chance to review Exhibit B?

11 A Yes.

12 Q Okay. Have you ever seen this document  
13 before?

14 A No.

15 Q Okay. Would you agree this is an e-mail  
16 from Tammy Lindsay to Denise Payne dated Tuesday  
17 June 13th, 2017?

18 A Yes.

19 Q Okay. And the first line Ms. Lindsay  
20 writes: Cindy did call me to talk to me about  
21 the conversation she had with you; do you see  
22 that?

23 A Uh-huh.

24 Q Do you recall having a conversation with  
25 Ms. Lindsay around June 13th, 2017 about a

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1 conversation you had with Ms. Payne?

2 A No.

3 Q Okay. Do you know what Ms. Lindsay is  
4 referring to here in that first line?

5 A Nope.

6 Q Okay.

7 (EXHIBIT C MARKED FOR IDENTIFICATION.)

8 Q You've been handed what's been marked as  
9 Exhibit C. Once again, just take your time to  
10 review that. Let me know when you've had a  
11 chance to do so.

12 A Okay.

13 Q Do you recognize this document?

14 A I don't recognize this document. I mean,  
15 I don't recall it, but I know about when it  
16 happened.

17 Q Okay. So this appears to be an e-mail  
18 chain between yourself and Ms. Payne.

19 A Uh-huh.

20 Q With Ms. Lindsay copied on the top e-mail  
21 from July 11th, 2017; do you see that?

22 A Yes.

23 Q And in the bottom e-mail, Ms. Payne  
24 writes: Hi, Cindy. When we met briefly last  
25 Friday, you mentioned that I am making a lot of



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1 mistakes. This is just a reminder that I will  
2 need further clarification and examples to  
3 understand and improve; do you see that?

4 A Yes.

5 Q Do you recall meeting with Ms. Payne  
6 around July 11th, 2017 regarding your opinion  
7 that she was making a lot of mistakes?

8 A Yes, I think this specific e-mail is a  
9 followup to -- that Friday she's speaking about  
10 is the one where she was screaming and yelling at  
11 me and walked out.

12 Q Okay. So --

13 A So I had mentioned when I went up to see  
14 her, the concerns that I had about the  
15 performance.

16 Q Okay. So this meeting that she's  
17 referencing happened last Friday.

18 A Uh-huh.

19 Q Is that the meeting you told us about  
20 occurred after you accidentally sent the e-mail  
21 to her?

22 A I believe so. We'd have to look at the  
23 e-mail stream, but I think that's the case.

24 Q Okay. She goes on to write: When we  
25 discussed my cards/flexible work arrangement, you

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1       also mentioned that may be the cause of my  
2       mistakes, so I'm hoping you can give me more  
3       information and clarify that statement as well;  
4       do you see that?

5           A       Yes.

6           Q       During that meeting that happened --  
7       during the meeting that happened on that Friday  
8       that she's referencing here, did you discuss Ms.  
9       Payne's timecard with her?

10          A       I don't recall that specifically.

11          Q       Okay. Did you discuss her flexible work  
12       arrangement with her during that Friday meeting?

13          A       I don't recall that.

14          Q       Okay. Prior to July 11th, 2017 do you  
15       recall ever discussing Ms. Payne's timecard with  
16       her?

17          A       Say that again, please.

18          Q       Prior to July 11th, 2017 do you recall  
19       ever discussing Ms. Payne's timecard with her?

20          A       No.

21          Q       Okay. And prior to July 11th, 2017 do  
22       you ever recall discussing Ms. Payne's flexible  
23       work arrangement with her?

24          A       No.

25          Q       Did you ever tell Ms. Payne that her work

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1 arrangement was causing her to make mistakes?

2 A No, I believe this is her interpretation.

3 Q Okay. Did you believe that Ms. Payne's  
4 work arrangement was causing her to make  
5 mistakes?

6 MR. PENCE: Excuse me, sorry. During  
7 which time period; this time period?

8 MS. VINCI: At any point.

9 MR. PENCE: Well, there were three  
10 flexible work agreements spanning a  
11 significant period of time, so --

12 MS. VINCI: During any part of that  
13 time.

14 Q Did you ever believe that Ms. Payne's  
15 flexible work arrangement caused her to make  
16 mistakes?

17 A No.

18 Q Okay. Did you ever believe that Ms.  
19 Payne's flexible work arrangement caused her to  
20 not develop the skills --

21 A Yes.

22 Q -- to be in the group? Okay.

23 A Wait a second, I want to clarify that.

24 Q Okay.

25 A Not the work agreement. I -- not the

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1 work agreement or the flexible agreement. I  
2 think the excess -- excessive non-medical time  
3 off made it hard to develop her, and her lack of  
4 an ability to take coaching, but not the work  
5 agreement.

6 Q How often would Ms. Payne take  
7 non-medical time off?

8 MR. PENCE: Again, during which time  
9 period?

10 Q Okay. So let's do it for, as we had  
11 before, so from February 2017 to May of 2017 how  
12 often would Ms. Payne take non-medical time off?

13 A I don't know.

14 Q Okay. From May of 2017 to August 2017  
15 how often would Ms. Payne take non-medical time  
16 off?

17 A I can't give specifics. I know there's a  
18 lot of things that she had going on that we  
19 agreed to give her time off for.

20 Q During that time period or during the  
21 entire employment as a data analyst?

22 A During that time period.

23 Q Okay. What things did you agree to give  
24 her time off for?

25 A She had a house that she was trying to

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1       buy and land. She wanted to take the trip after  
2       she rang the bell, she wanted to take that trip  
3       with the family and we approved that. There were  
4       odds and ends that came up. She wanted to take a  
5       course and was looking into some of that, we  
6       agreed to that.

7           Q       Okay. So -- so far you've told me of  
8       three non-medical time off circumstances.

9           A       Uh-huh.

10          Q       The house and purchasing land, taking the  
11       trip with the family after she finished her  
12       treatments, and some odds and ends that came up  
13       within the --

14          A       Uh-huh.

15          Q       -- May of 2017 to August 2017 time  
16       period. Were all of those times off approved to  
17       your knowledge?

18                   MR. PENCE: Object to form. You may  
19       answer.

20          A       I do believe they were approved.

21          Q       Okay. Who would approve them?

22          A       Tammy.

23          Q       Did Tammy ever consult with you before  
24       approving one of Ms. Payne's requested time off  
25       for non-medical reasons?

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1           A     I don't recall specifically that she  
2           would say yay or nay, but I think when they were  
3           an aggregate of, you know, the types of things we  
4           were giving off, we talked about it.

5           Q     Okay. Did you ever discuss with Ms.  
6           Payne that you felt her absences for non-medical  
7           reasons was causing her to make mistakes --

8           A     No.

9           Q     -- in her job performance?

10          A     No.

11          Q     Okay.

12                         MS. VINCI: We'll take a break.

13                         (OFF THE RECORD.)

14          Q     Do you recall if Ms. Payne ever  
15          complained to you that she did not have enough  
16          work to do?

17          A     I don't recall that.

18          Q     Okay. Do you know if she ever complained  
19          to anybody that she did not have enough work to  
20          do in the business analytics department?

21          A     I -- I don't know.

22          Q     Okay. Did you ever have a meeting with  
23          -- or do you recall having a meeting with Ms.  
24          Doxey and Ms. Weaver and Ms. Lindsay in the  
25          summer of 2017 regarding your and Ms. Lindsay's

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1 concerns about Ms. Payne's work performance?

2 A I don't recall that meeting. Not that  
3 there wasn't one, I don't recall it.

4 Q Okay.

5 A The other thing I would -- I just want to  
6 clarify.

7 Q Sure.

8 A When you say -- maybe I'm taking this too  
9 literally. When you say did Ms. Payne ever tell  
10 me, I'm assuming you mean like verbally in a  
11 meeting, but I -- I was copied on a lot of  
12 e-mails. I don't specifically remember an e-mail  
13 that addressed that, but, you know, it -- it's  
14 not uncustomary to be copied on things, so --

15 Q Okay. So --

16 A So I'm thinking verbally, face-to-face.

17 Q I understand. So I'm going to kind of  
18 like go back through a couple of questions from  
19 today.

20 A Yeah.

21 Q To your knowledge did Ms. Payne ever  
22 express either verbally, in an e-mail to you, in  
23 an e-mail you were copied on, or in any way, that  
24 she did not have enough work to do in the  
25 business analytics department?

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1 A I don't recall that.

2 Q Okay. Did Ms. Payne ever, to your  
3 knowledge, complain or -- well, not complain. Or  
4 express, again, either face-to-face, verbally to  
5 you, on a phone call, in an e-mail, in any way,  
6 that she felt that Ms. Lindsay was not abiding by  
7 any of the flex work agreements?

8 A I don't recall --

9 Q Okay.

10 A -- that specifically.

11 Q Did Ms. Payne ever express to you, again,  
12 in any way, shape, or form that she -- that she  
13 felt discriminated against at Cornell?

14 MR. PENCE: Object to form, but to  
15 the extent you understand the question, you  
16 may answer.

17 A No.

18 Q Did Ms. Payne express in any way to you,  
19 or in any correspondence you were copied on, that  
20 Ms. Lindsay was not providing her with the  
21 accommodation under her work agreements?

22 A No, not that I recall.

23 Q Okay. And you -- I believe you testified  
24 already that you're not aware of any applications  
25 Ms. Payne submitted after she was laid off from



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1 the business analytics department?

2 A That's true. I don't know if she applied  
3 or not.

4 MS. VINCI: I don't have any further  
5 questions.

6 MR. PENCE: Okay. I don't have any  
7 redirect. We'll reserve and sign.

8 \* \* \*

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A F F I D A V I T

STATE OF NEW YORK

COUNTY OF \_\_\_\_\_

I have read my deposition, and the  
same is true and accurate, save and except for  
changes and/or corrections, if any, as indicated  
by me on the correction sheet attached hereto.

\_\_\_\_\_  
LUCINDA ALLEN

SUBSCRIBED AND SWORN TO before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires on \_\_\_\_\_.

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1 STATE OF NEW YORK

2 COUNTY OF CHEMUNG

3 I, Caitlyn A. Shaylor, do hereby certify  
4 that before the taking of the deposition, the said  
5 witness was by me first duly sworn to testify  
6 to the truth, the whole truth and nothing but the  
7 truth and that the above deposition was recorded by  
8 me in stenotype and reduced to typewriting under my  
9 supervision.

10 I further certify that the said  
11 deposition constitutes a true record of the  
12 testimony given by said witness to the best of my  
13 ability.

14 I further certify that the said  
15 deposition was taken before me at the time and  
16 place specified in the notice.

17 I further certify that I am not a  
18 relative or employee or attorney or counsel of any  
19 of the parties, or a relative or employee of such  
20 attorney or counsel or financially interested  
21 directly or indirectly in this action.

22  
23   
24 CAITLYN A. SHAYLOR  
25

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## I N D E X

Witness	Examination By	Pages
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## E X H I B I T S

Number	Description	Page
A	E-mail chain dated May 9th, 2017	50
B	E-mail dated June 13th, 2017	62
C	E-mail chain dated July 11th, 2017	63

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